

**NO. 20-0394**

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IN THE SUPREME COURT OF TEXAS

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***IN RE STATE OF TEXAS***

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On Petition for Writ of Mandamus to the Harris County Clerk, the Travis County Clerk, the Dallas County Elections Administrator, the Cameron County Elections Administrator, and the El Paso County Elections Administrator

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**RESPONSE OF HARRIS COUNTY,  
TEXAS TO PETITION FOR  
WRIT OF MANDAMUS**

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**HARRIS COUNTY, TEXAS**

Vince Ryan  
SBN 17489500  
Harris County Attorney  
Robert Soard  
SBN 18819100  
Terence O'Rourke  
SBN 15311000  
Douglas Ray  
SBN 16599300  
1019 Congress  
Houston, TX 77002  
Tel: 713-755-5585  
Fax: 713-755-8848

Susan Hays  
LAW OFFICE OF SUSAN HAYS, PC  
SBN 24002249  
P.O. Box 41647  
Austin, TX 78704  
Tel: 214-557-4819  
Fax: 214-432-8273  
*hayslaw@me.com*

**HUNTON ANDREWS KURTH LLP**

Scott A. Brister  
SBN 00000024  
Cameron L. Davis  
SBN 24045751  
500 W. 5th, Suite 1350  
Austin, TX 78701  
Tel: 512-320-9220  
Fax: 512-542-5049  
*sbrister@huntonak.com*  
*cdavis@huntonak.com*

Kelly Sandill  
SBN 24033094  
600 Travis, Suite 4200  
Houston, TX 77002  
Tel: 713-220-4181  
Fax: 713-220-4285  
*ksandill@huntonak.com*

**ATTORNEYS FOR RESPONDENT  
DIANE TRAUTMAN, HARRIS COUNTY CLERK**

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## STATEMENT OF JURISDICTION

Respondent Diane Trautman is named in her official capacity as Harris County Clerk. Because this suit against the Clerk in her official capacity is effectively a suit against Harris County, *see Garza v. Harrison*, 574 S.W.3d 389, 399 (Tex. 2019), this brief for the sake of simplicity will refer to Respondent as “Harris County.”

Harris County agrees the Texas Election Code grants jurisdiction to state appellate courts, including this Court, to issue “a writ of mandamus to compel the performance of any duty imposed by law in connection with the holding of an election.”<sup>1</sup> The rules generally require that in cases like this of concurrent jurisdiction, “the petition must be presented first to the court of appeals unless there is a compelling reason not to do so.”<sup>2</sup> But Harris County also agrees that time is of the essence and that the imminence of the July primary runoff “places this case within the narrow class of cases in which resort to the court of appeals is excused.”<sup>3</sup>

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<sup>1</sup> TEX. ELEC. CODE § 273.061.

<sup>2</sup> TEX. R. APP. P. 52.3(e).

<sup>3</sup> *In re Williams*, 470 S.W.3d 819, 821 (Tex. 2015).

Harris County does not concede that the petition should be granted, or that its election officials have in the past, or must in the future, reject applications for mail-in ballots that claim disability “based solely on the generalized risk of contracting a virus.” (*PFM at x*). For the reasons stated in this brief, the requested relief should not be granted.

## **ISSUES PRESENTED**

1. Whether Texas Election Code section 82.002(a) allows qualified voters who lack immunity to a highly contagious disease during a global pandemic, to vote by mail due to a physical condition that prevents them from appearing in person at the polling place on Election Day without a likelihood of injuring the voter’s health.
2. Whether local election officials have discretion to reject applications by qualified voters for mail-in ballots that claim “disability” on a proper form.

## INTRODUCTION

It is beyond ironic that state officials, having ordered Texas residents to shelter in place for months because of a serious health risk, would now insist Texans *must* expose themselves to that risk if they want to vote. Claiming fear of exposure to Covid-19 does not justify voting by mail, Petitioner has employed fear of prosecution to coerce local election officials to adopt a narrow interpretation of voting law inconsistent with its plain terms (*MR0256-58*). For two reasons, the Court should deny that interpretation.

First, Harris County intends to allow voters to vote by mail because of *facts*, not *fears*. Lack of immunity to a highly infectious disease in a global pandemic is not a “mental or emotional condition” (*PFM at 13*). It is a fact, an actual physical condition that could be tested if that were what state law required. But Texas law does not; it plainly allows voting by mail when a physical condition like this prevents a voter from voting in person due to a likelihood of injuring his or her health (*see Part I*). If that standard is too generous, then the Legislature, not this Court, must change it.

Second, Harris County election clerks have no discretion to reject voting-by-mail applications when a voter claims a disability (*see Part II*). Clerks cannot interrogate, investigate, or adjudicate an applicant's veracity; the law does not even require applicants to state what their disability might be. By state law, a voter is entitled to vote by mail if an application is in proper form, and election clerks have no authority to reject them. If that is too generous, then only the Legislature, not this Court, can change it.

## **STATEMENT OF FACTS**

More people reside in Harris County than in 27 states, a population that includes 2.4 million registered voters (*MR0541*). Texas and Harris County are currently scheduled to have primary runoff elections on July 14, 2020, with early voting beginning June 29th (*MR0259*). The last day to apply for a vote by mail ballot is July 2, 2020 (*id.*).

The County requires 6,000 workers at 750 election centers for early and Election Day voting in November, and faces difficulty recruiting them this year as they cannot be completely protected from

exposure to thousands of voters who might be infected (*MR0542, MR0549-51*). Unless voting by mail increases substantially from the historic levels of 8% to 12%, it may prove impossible to limit contagion during in-person voting on Election Day (*MR0542-43*).

Harris County agrees that ballot security is important. But if voting by mail were as dangerous as Petitioner argues in his Statement of Facts, it would not have survived in Texas for 103 years.<sup>4</sup> Disabled persons have been able to vote by mail since 1935, though applications back then had to be sworn to and certified by a physician.<sup>5</sup> Those who qualify as disabled have been defined since 1965 as persons who “cannot, without injury to his health or without personal assistance, cast his vote in the regular manner.”<sup>6</sup> Since adoption of the Texas Election Code in 1985, no oath, affirmation, or certificate by anyone has been required for the disabled to vote by mail—they need do

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<sup>4</sup> See Act of May 26, 1917, 35th Leg. 1st C.S., ch. 40, § 1, 1917 Tex. Gen. Laws 62, 64-64.

<sup>5</sup> See Act of May 17, 1935, 44th Leg., R.S., ch. 300, 1935 Tex. Gen. Laws 700, 700-01.

<sup>6</sup> See Act of June 18, 1965, 59th Leg., R.S., ch. 678, § 7, 1965 Tex. Gen. Laws 1552, 1558.

nothing but sign an application containing “an indication of the ground of eligibility to vote absentee.”<sup>7</sup>

Nor does Harris County dispute that governmental officials are “working diligently to protect the safety” of voters; that is certainly true in Harris County. What the petition cannot state as a fact is how effective or ineffective those efforts may be. The shelter-in-place orders of the last two months recognized this uncertainty and took strict, even harsh measures to avoid it. The petition does not and cannot state as a fact that in-person voting will not present the same likelihood of contagion and worse for many in-person voters on election day.

Petitioner is incorrect that Harris County intends to employ its “own definition of ‘disability.’” (*PFM at 7*). In the brief from which the petition lifts two phrases, Harris County sought “enforcement of the definition of ‘disability’ *under the Texas Election Code* [which] allow[s] anyone for whom voting in person presents a likelihood of injury to

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<sup>7</sup> Act of May 24, 1985, 69th Leg., R.S., ch. 211, § 1, 1985 Tex. Gen. Laws 802, 897, 901.

the voter's health" (*MR0542*, emphasis added). That is precisely how state law defines "disability."<sup>8</sup>

In that context, the brief advocated that "all voters should be free to vote by mail in the July 14 run-off and the November election." (*MR0542*). That argument simply applied what Texas law requires to the current context: voters "in the position of contracting a disease" (i.e., not immune) are free to vote by mail due to the risk of "injuring the voter's health." (*MR0546*).

Harris County's interpretation is based on the law, not hope of partisan advantage. The brief just quoted cited statistical and historical evidence that voting by mail has not shown any partisan advantage. (*MR0547-49*). The short deadline imposed here does not permit full briefing on the propriety or legality of Petitioner's threat to prosecute "third parties" who "advise voters to apply for a ballot by mail for ... fear of contracting COVID-19" (*MR0257*), an issue under review in other courts. But under the current conditions, it is likely to discourage voting rather than contagion. (*MR0542*).

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<sup>8</sup> See TEX. ELEC. CODE § 82.002.

## ARGUMENT

### I. “Physical condition” includes lack of immunity to a new pandemic

**A qualified voter is eligible for early voting by mail if the voter has a sickness or physical condition that prevents the voter from appearing at the polling place on election day without a likelihood of needing personal assistance or of injuring the voter’s health. TEX. ELEC. CODE § 82.002(a)**

The statutory text declares that qualified voters are eligible for early voting by mail if a voter has a “physical condition” that prevents voting in person on election day due to “a likelihood ... of injuring the voter's health.” In a global epidemic, mingling with a crowd when one has neither natural nor acquired immunity increases the likelihood of sickness and even death. That is precisely why the state has ordered citizens to shelter in place for over two months.

Petitioner argues that voters who have no immunity do not have a “sickness or physical condition” because they are currently healthy. By definition, a “healthy” person is not sick; but citizens do not have

to be healthy to vote. Lack of immunity is a physical condition, and ignoring it in the current context can injure your health.

Petitioner employs a little cherry-picking by citing the New Oxford American Dictionary's definition of "condition" that means "an illness or other medical problem." (*PFM at 13*). That is a secondary definition; the primary definition in that reference work states that *condition* means "the state of something, esp. with regard to its appearance, quality, or working order."<sup>9</sup> The state of having no immunity to a highly contagious disease is thus a "condition." Jumping instead to the secondary definition would turn the statutory phrase "sickness or physical condition" into "sickness or sickness." That is not a reasonable construction.

There is no reason to think the Legislature intended simply to repeat itself here. "Disability" and "condition" commonly mean more than sickness. Disabled people who need personal assistance at a polling place do not have a *sickness*; they have a physical *condition* the statute refers to as a disability. Nor do people with asthma, obesity, or

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<sup>9</sup> NEW OXFORD AM. DICTIONARY 362 (3d ed. 2010) (emphasis added).

compromised immunity have a *sickness*; they simply have a “physical condition” that can render them vulnerable to several health hazards. By state law, these physical conditions allow them to vote by mail if the circumstances present a likelihood of injuring their health on Election Day.

Petitioner claims local officials in Harris County have announced a definition of disability that extends beyond “sickness or physical condition” to a mere “generalized fear common to all voters of contracting disease.” (*PFM at 2*). But Harris County does not intend to apply a local definition of disability that “trumps the Legislature’s,” or to encourage voters to vote by mail “regardless of whether they have any ‘disability.’” *Id.* Voters whose physical condition renders them susceptible to severe illness are allowed by Texas law to vote by mail, even if they describe their condition in layman’s terms as a “fear of infection.” Fear of the current disease in the current context *is the result* of a physical condition; viewing it as a narrow stand-alone reason that disregards the statute is uncharitable to voters who are not lawyers.

Finally, Petitioner suggests the term “likelihood” requires that voters prove potential health consequences are more probable than not

(PFM at 13–14). First, *nobody knows* what the odds of infection are at present, or even what circumstances affect them. Second, if this standard were uniformly employed to test disability, those who face “a likelihood of needing personal assistance” cannot vote by mail if the probability of insurmountable obstacles, frequent frustration, or public humiliation is below 50%.<sup>10</sup>

Third, in ordinary usage, the word “likelihood” can refer generally to a chance or possibility of events, even if they fall well below 50%.<sup>11</sup> For example, “likelihood of injury” is a factor used in assessing unreasonably dangerous products, but likelihood greater than 50% is not required.<sup>12</sup> In the exemplary damage context, the “likelihood of serious injury” is a sliding scale where probability varies inversely with gravity of potential harm.<sup>13</sup> And proof of

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<sup>10</sup> See *In re Commitment of Bluit*, 2020 WL 2502112, at \*4 (Tex. May 15, 2020) (courts construe a statute “according to its plain meaning, informed by context and consistent with the statute’s other provisions.”).

<sup>11</sup> *Likelihood*, MERRIAM-WEBSTER ONLINE DICTIONARY, <https://www.merriam-webster.com/dictionary/likelihood> (last visited May 17, 2020).

<sup>12</sup> See *Genie Indus., Inc. v. Matak*, 462 S.W.3d 1, 12 (Tex. 2015) (finding no “likelihood” where chance of injury was “one in millions”).

<sup>13</sup> See *Columbia Med. Ctr. of Las Colinas, Inc. v. Hogue*, 271 S.W.3d 238, 248 (Tex. 2008).

standing requires a “substantial likelihood” that requested relief will remedy the alleged injury, but does not require proof “to a mathematical certainty.”<sup>14</sup> State law provides plenty of tools for the rare instance in which someone abuses the right to vote: 112 sections of the Election Code contain the words “felony” or “misdemeanor” (77 with “misdemeanor,” 24 with “felony,” and 11 with both).<sup>15</sup> In a state with as many independently minded souls as Texas, construing “disability” to include lack of immunity is unlikely to force all voters to vote by mail, *PFM at 14*; even in states where everyone can vote by mail, only about 10% do.<sup>16</sup> In future elections where people have not been locked-down for months by government order and a highly contagious virus has not reached pandemic levels, prosecutors or the

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<sup>14</sup> *Heckman v. Williamson Cty.*, 369 S.W.3d 137, 155 (Tex. 2012).

<sup>15</sup> A search of the Attorney General’s website generates numerous results in which he touts voter fraud investigations and arrests. *See, e.g., Voter Fraud, Work of AG Paxton’s Election Fraud Unit Results in Arrests of 4 Members of Organized Voter Fraud Ring in North Fort Worth* (texasattorneygeneral.gov October 12, 2018), <https://www.texasattorneygeneral.gov/news/releases/work-ag-paxtons-election-fraud-unit-results-arrests-4-members-organized-voter-fraud-ring-north-fort>.

<sup>16</sup> *See Barry Burden, More voting by mail would make the 2020 election safer for our health. But it comes with risks of its own* (washingtonpost.com April 6, 2020), <https://www.washingtonpost.com/politics/2020/04/06/more-voting-by-mail-would-make-2020-election-safer-our-health-it-comes-with-risks-its-own/>.

Attorney General may pursue voters whom they believe are not disabled yet voted by mail, if that is how they choose to exercise their discretion. But elections this year involve circumstances never seen or even conceived before; in these circumstances, lack of immunity is a physical condition that prevents many voters from voting in person due to a likelihood of injuring their health.

## **II. Election clerks have a ministerial duty to accept applications in proper form**

A writ of mandamus issues only to compel public officials to perform a ministerial duty imposed by law.<sup>17</sup> But the petition here seeks a writ to control not what local officials are *doing*, but what they are *saying*. (*PFM at 2*) (“Respondents are urging voters to apply to vote by mail”); *id.* at 16 (alleging Respondent are “encouraging voters who are not eligible to claim that they are”); *see also id.* at 8–11. The Election Code limits the former, but not the latter. The Petition cites nothing in the record supporting the claim that local officials “are approving more and more [improper applications] each day.” (*PFM at 2*). Yet

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<sup>17</sup> *Williams*, 470 S.W.3d at 821.

even if it did, the acts it seeks to compel are not duties imposed by law, because state law limits an election clerk's job to testing the condition of an *application* to vote by mail, not the condition of the *voter*.

The parties agree the Election Code requires early voting clerks to “review each application for a ballot to be voted by mail,” to provide such a ballot “[i]f the applicant is entitled to vote an early ballot by mail,” and to reject the application “if the applicant is not entitled to vote by mail.”<sup>18</sup> *See PFM at 1, 4–5*. But after quoting those statutory sections, the petition never again addresses *entitlement* to vote by mail; it addresses only *eligibility* to vote by mail. The two are not the same.

The Code does not define “eligible” or “entitled,” so the Court must give them their ordinary meaning.<sup>19</sup> *Eligible* means “legally qualified for an office, privilege, or status.”<sup>20</sup> *Entitle* means to “grant a

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<sup>18</sup> TEX. ELEC. CODE § 86.001(a)–(c).

<sup>19</sup> *See Sw. Royalties, Inc. v. Hegar*, 500 S.W.3d 400, 405 (Tex. 2016).

<sup>20</sup> *Eligible*, BLACK'S LAW DICTIONARY 657 (11th ed. 2019).

legal right to or qualify for.”<sup>21</sup> The two are related but distinct, and parallel the verbs *can* and *may*: citizens can vote (are able) if they are *eligible*, but may vote (are permitted) only if they are *entitled* to.<sup>22</sup>

The Election Code does not use *eligible* and *entitled* interchangeably; those who are eligible for early voting only become entitled to early voting by filing an application: “To be *entitled* to vote an early voting ballot by mail, a person who is *eligible* for early voting must make an application for an early voting ballot to be voted by mail as provided by this title.”<sup>23</sup> An eligible voter does not have to use an official application form.<sup>24</sup> The application must indicate the ground of eligibility for early voting,<sup>25</sup> but even the state’s “official” but optional form requires no explanation if the ground is “disability.”<sup>26</sup> **Only the voter** is authorized by the Election Code to

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<sup>21</sup> *Entitle, id.* at 673.

<sup>22</sup> *Compare Can, id.* at 255 (“To be able to do something”) *with May, id.* at 1172 (“To be permitted to”).

<sup>23</sup> TEX. ELEC. CODE § 84.001(a) (emphasis added).

<sup>24</sup> *Id.* § 84.001(c).

<sup>25</sup> *Id.* § 84.002(a)(6).

<sup>26</sup> *Id.* § 84.011(a)(4)(D); *see* Application for Ballot by Mail (webservices.sos.state.tx.us May 17, 2020), <https://webservices.sos.state.tx.us/forms/5-15f.pdf>.

decide at the application stage whether he or she can properly claim to be disabled due to a “sickness or physical condition” that presents a likelihood of harm.

By contrast, chapter 86 requires voting clerks to decide who is *entitled* to vote early, not who is *eligible* to vote early; they must do so based on whether the *application* rather than the *voter* meets the statutory requirements.<sup>27</sup> Chapter 86 does not empower them to interrogate, investigate, or adjudicate an applicant’s veracity. They can do only one of two things: reject the application, or send the applicant a mail-in ballot.<sup>28</sup> Petitioner concedes that election clerks “have no discretion to do anything but determine whether the voter is entitled to vote by mail and process the application accordingly.” (*PFM at 16*). The rest of the petition—which addresses who is *eligible* to vote by mail—is not within their duties or discretion.

Until recently, this has been Petitioner’s view as well. In an attorney general opinion issued five year ago, Petitioner conceded that “while proof of disability may not be necessary to apply for a mail-in

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<sup>27</sup> See TEX. ELEC. CODE § 86.001.

<sup>28</sup> *Id.* § 86.001(b)–(c).

ballot, its production may be compelled if a voter's qualification for voting by mail is challenged in court."<sup>29</sup> The same advice is currently being rendered by the secretary of state, "the chief election officer of the state," TEX. ELEC. CODE § 31.001; her office has informed local officials they may not deny a ballot to voters who claim to be disabled because "you do not have any authority to police that":

The issue is not whether you are allowed to mail [a] ballot, you must mail a ballot to a voter that checks disability. The question is whether the voter should really be checking disability. The Attorney General has issued an opinion saying they do not believe that being afraid of Covid is [] a disability. However, you do not have any authority to police that (*SuppMR7*).

State voting law has not changed; only Petitioner's interpretation of it has.

This is not to say there are no consequences if a voter votes by mail when not entitled to do so. It is an offense if a person "knowingly provides false information" on an application for a ballot or "knowingly submits an application for ballot by mail without

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<sup>29</sup> See TEX. ATT'Y GEN. OP. NO. KP-0009 (2015).

knowledge and authorization of the voter.”<sup>30</sup> And a ballot by a voter not eligible to vote by mail is invalid.<sup>31</sup>

County election officials have no discretion to refuse to mail a ballot to qualified voters who file an application in proper form that meets the requirements for voting by mail. Petitioner has sued the wrong respondents—if the substance of those applications is insufficient, the proper respondents are the voters who filed them. That may be tedious but it is not impossible; the statute grants Texas appellate courts jurisdiction to issue a writ of mandamus to compel compliance with state election law “regardless of whether the person responsible for performing the duty is a public officer.”<sup>32</sup> Because Respondents are not out of compliance with those laws, there is no basis for the writ.

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<sup>30</sup> TEX. ELEC. CODE § 84.0041(a)(1), (3).

<sup>31</sup> See *Tiller v. Martinez*, 974 S.W.2d 769, 775 (Tex. App.—San Antonio 1998, pet. dismissed w.o.j.).

<sup>32</sup> TEX. ELEC. CODE § 273.061.

### III. Why this case is important

Texans' freedom to vote without risking bodily injury is more important today than ever before. The Covid-19 Pandemic is the most serious public health crisis in a century. According to the Texas Department of Health and Human Services, infections have been reported in 222 of Texas's 254 counties.<sup>33</sup> With only 693,276 tests performed (about 2.3% of the Texas population), there are already 47,784 identified cases.<sup>34</sup> More than 1,300 Texans have lost their lives to the disease in just over two months.<sup>35</sup> And the rate of daily new cases and deaths is not declining.<sup>36</sup>

Among the cautions urged by the United States Centers for Disease Control and the Texas Department of Health and Human Services to protect persons from the risk of contracting Covid-19 are:

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<sup>33</sup> See Texas Case Counts, COVID-19 (dshs.texas.gov May 17, 2020) <https://txdshs.maps.arcgis.com/apps/opsdashboard/index.html#/ed483ecd702b4298ab01e8b9cafc8b83>.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

“Do not gather in groups,” and “Stay out of crowded places and avoid mass gatherings.”<sup>37</sup>

Consistent with these precautions and recognizing the serious health risk to Texans, on March 19, 2020, Governor Abbott issued an order prohibiting Texans from gathering in groups larger than ten persons. (MR0120–22). On April 17, 2020, the Governor, by executive order, continued to direct that:

[E]very person in Texas shall, except where necessary to provide or obtain essential services or reopened services, minimize social gatherings and minimize in-person contact with people who are not in the same household (MR0151).

That directive was renewed by executive order of the Governor on May 5, 2020, and remains in effect at the time of this filing. (MR0240) Schools across Texas have been closed since March and will remain so through the end of the academic year. (MR0243)

In Texas’s large counties, in-person voting inherently involves the gathering of large numbers of persons. The number of registered

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<sup>37</sup> See Coronavirus Disease 2019 (COVID19), *How to Protect Yourself & Others* (cdc.gov May 17, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/prevention-getting-sick/prevention.html>.

voters in both Texas and Harris County has been climbing steadily,<sup>38</sup> and in-person voter turnout for the general election has increased over the last decade.<sup>39</sup> With increasing numbers of registered voters and increasing turnout, large numbers of voters and long lines at polling places have been reported in Harris County and other large Texas counties.<sup>40</sup>

Harris County has historically used many nursing homes as polling places (MR0564), an option now unavailable. Safe distancing requires larger venues, which will require that some polling places be combined (MR0565). In-person voting will take longer this year, due to both the elimination of straight-ticket voting and the necessity of disinfecting equipment used voters (MR0564). And poll workers will

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<sup>38</sup> See Turnout and Voter Registration Figures (1970-current) (sos.state.tx.us May 17, 2020), <https://www.sos.state.tx.us/elections/historical/70-92.shtml>; Voter Registration Statistics (hctax.net May 17, 2020), [https://www.hctax.net/Voter/Voter\\_Demographic/VoterVisualization](https://www.hctax.net/Voter/Voter_Demographic/VoterVisualization)

<sup>39</sup> See Turnout and Voter Registration Figures (1970-current), (sos.state.tx.us May 17, 2020) <https://www.sos.state.tx.us/elections/historical/70-92.shtml>.

<sup>40</sup> See Jim Malewitz, *In Some counties, early voting means long lines* (texastribune.org October 24, 2016), <https://www.texastribune.org/2016/10/24/some-texas-counties-long-lines-complicate-early-vo/>; Alex Ura, *Texas lawmakers to hold hearing into excessive Super Tuesday voting lines* (texastribune.org March 5, 2020), <https://www.texastribune.org/2020/03/05/texas-lawmakers-excessive-voting-lines-primary/>.

be encumbered by personal protective equipment further slowing the pace of voting. As the average age of poll workers in Harris County is 68, special care must be taken to avoid placing them at risk (MR0566). As shown by the confusion and complaints after this years' Iowa caucuses, now is not the time to apply a narrow interpretation of state law that forces all possible voters into a system that is new and untested.

In the most recent Presidential primary, over 470,000 individuals cast in-person votes in Harris County, with more than 271,000 of those votes recorded on an election day.<sup>41</sup> Based on historical trends of in-person votes cast in Harris County in recent Presidential elections – topping 1.1 million in 2012 and 1.2 million in 2016<sup>42</sup> – a much greater number of voters can be expected to participate in the upcoming general election. Even in the best of circumstances, those votes will be

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<sup>41</sup> See Democratic Party Canvass Report (harrisvotes.com May 17, 2020), <https://www.harrisvotes.com/HISTORY/20200303/DemocraticCanvass.pdf>; Republican Party Canvass Report (harrisvotes.com May 17, 2020), <https://www.harrisvotes.com/HISTORY/20200303/RepublicanCanvass.pdf>.

<sup>42</sup> See Cumulative Report November 6, 2012 (harrisvotes.com May 17, 2020), <https://www.harrisvotes.com/HISTORY/20121106/cumulative/cumulative.pdf>; Cumulative Report November 8, 2016 (harrisvotes.com May 17, 2020), <https://www.harrisvotes.com/HISTORY/20161108/cumulative/cumulative.pdf>.

cast at shared polling locations with shared voting machines far fewer in number than the voters themselves.<sup>43</sup>

While Harris County officials are working to provide the safest in-person voting experience they can for the upcoming elections, the needs here are unprecedented, and contagion risk cannot be contained with certainty. Thankfully, Texas voters do not have to risk their health in order to exercise the constitutional right to vote. The Election Code provides Texans the freedom to vote by mail as a means to ensure that no voter has to make such an impossible choice. This Court's adherence to the directive of the Legislature in these unprecedented times could not be more imperative.

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<sup>43</sup> In the 2018 General Election, Harris County utilized 700 polling places with 1,478 Disability Access Units and 6,402 individual voting machines. (*SuppMR10*). In the March 2020 Primary Election, Harris County utilized 1,604 Disability Access Units and 6,749 individual voting machines across 747 polling locations. (*Id.*) For the July run-off election, Harris County expects to utilize 109 polling places and 436 Disability Access Units and 1,426 individual voting machines. (*Id.*) And while it is still working to determine the exact number of polling places and election machines it will have available for the November General Election, Harris County anticipates that the number of polling places will be 750, with 1,750 Disability Access Units and 8,000 individual voting machines. (*Id.*)

## CONCLUSION

*When you are reasonable with people and show them respect, they will want to respond in kind. But when they feel those calling the shots are being disrespectful, they will push back hard and rebel even in ways that hurt them.*

Peggy Noonan, *Scenes From the Class Struggle in Lockdown*  
WALL STREET JOURNAL, May 16, 2020

Election officials in Harris County have not invited people to cower in their homes out of fear on election day. They have advised them to vote by mail if they do not have immunity to a highly contagious disease that is likely to injure their health. Under the current circumstances—circumstances almost totally unique in Texas history—that is perfectly within state law.

Everyone's nerves are a bit frayed, including the public officials whose calling it is to serve the people in these unprecedented times. That is all the more reason for government officials, regardless of their party affiliation, to avoid exercising their authority in ways that are heavy-handed and ham-fisted.

It is unlikely that the current global pandemic will continue forever; that it will not do so is devoutly to be wished. In these unique times, the issue is not whether to open the floodgates for every voter

who fears a cold or the measles (*PFM at 14-15*). The Texas Election Code is sufficiently flexible to meet varying times and places, and does so here by granting reasonable voters the discretion to decide whether it is safe for them to vote in person according to the statutory requirements. Local election officials cannot amend that law to make it more lenient, nor can the Attorney General amend it to make it more strict. The Court should deny the petition.

Respectfully submitted,

**HUNTON ANDREWS KURTH LLP**

By: /s/ Scott A. Brister

Scott A. Brister - SBN 00000024

*sbrister@huntonak.com*

Cameron L. Davis - SBN 24045751

*cdavis@huntonak.com*

500 W. 5th Street, Ste. 1350

Austin, TX 78701

Tel: 512-542-5000

Fax: 512-542-5049

Kelly Sandill - SBN 24033094

*ksandill@huntonak.com*

600 Travis, Ste. 4200

Houston, TX 77002

Tel: 713-220-4181

Fax: 713-220-4285

## **HARRIS COUNTY**

Vince Ryan - SBN 17489500  
HARRIS COUNTY ATTORNEY  
Robert Soard - SBN 18819100  
FIRST ASSISTANT COUNTY ATTORNEY  
Terence O'Rourke - SBN 15311000  
SPECIAL ASSISTANT COUNTY ATTORNEY  
Douglas Ray - SBN 16599300  
SPECIAL ASSISTANT COUNTY ATTORNEY  
1019 Congress St., 15th Floor  
Houston, TX 77002  
Tel: 713-755-5585  
Fax: 713-755-8848

Susan Hays - SBN 24002249  
LAW OFFICE OF SUSAN HAYS, PC  
*hayslaw@me.com*  
P.O. Box 41647  
Austin, TX 78704  
Tel: 214-557-4819  
Fax: 214-432-8273

**ATTORNEYS FOR DIANE TRAUTMAN,  
HARRIS COUNTY CLERK**

## **CERTIFICATIONS**

I certify that I have reviewed the Response to Petition for Writ of Mandamus and concluded that every factual statement in the Response is supported by competent evidence included in the appendix or record. I further certify that every document contained in the Appendix is true and correct.

/s/ Scott A. Brister  
Scott A. Brister

## **CERTIFICATE OF COMPLIANCE**

I certify that this Response Brief contains 4,242 words as calculated per Rule 9.4(i)(1) of the Texas Rules of Appellate Procedure.

/s/ Scott A. Brister  
Scott A. Brister

## CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Response to Petition for Writ of Mandamus was served on the following counsel of record via electronic transmission on May 18, 2020:

Kyle D. Hawkins – *kyle.hawkins@oag.texas.gov*

Office of the Attorney General

P.O. Box 12548

Austin, TX 78711

***Attorney for Relator State of Texas***

Leslie Dippel – *Leslie.Dippel@traviscountytexas.gov*

Office of the County Attorney, Travis County

P.O. Box 1748

Austin, TX 78746

***Attorney for Respondent Dana DeBeauvoir***

Luis V. Saenz – *district.attorney@co.cameron.tx.us*

County and District Attorney, Cameron County

964 E. Harrison Street

Brownsville, Texas 78520

***Attorney for Respondent Remi Garza***

Russel H. Roden – *russell.roden@dallascounty.org*

Dallas County District Attorney's Office, Civil Division

411 Elm Street, 5th Floor

Dallas, Texas 75202

***Attorney for Respondent Toni Pippens-Poole***

Jo Ann Bernal – *jbernal@epcounty.com*

El Paso County Attorney

500 E. San Antonio, 5th Floor, Suite 503

El Paso, Texas 79901

***Attorney for Respondent Lisa Wise***

/s/ Scott A. Brister

Scott A. Brister

## APPENDIX

<b>Tab</b>	<b>Description</b>
1	Tex. Elec. Code § 82.002
2	Tex. Elec. Code § 84.001
3	Tex. Elec. Code § 84.002
4	Tex. Elec. Code § 86.001
5	Secretary of State Application for Ballot by Mail
6	Harris County Application for Ballot by Mail

Vernon's Texas Statutes and Codes Annotated  
Election Code (Refs & Annos)  
Title 7. Early Voting  
Subtitle A. Early Voting  
Chapter 82. Eligibility for Early Voting (Refs & Annos)

V.T.C.A., Election Code § 82.002

§ 82.002. Disability

**Currentness**

(a) A qualified voter is eligible for early voting by mail if the voter has a sickness or physical condition that prevents the voter from appearing at the polling place on election day without a likelihood of needing personal assistance or of injuring the voter's health.

(b) Expected or likely confinement for childbirth on election day is sufficient cause to entitle a voter to vote under Subsection (a).

**Credits**

Acts 1985, 69th Leg., ch. 211, § 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, § 19, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, § 2.05; Acts 1991, 72nd Leg., ch. 554, § 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, § 69, eff. Sept. 1, 1997.

**Notes of Decisions (6)**

V. T. C. A., Election Code § 82.002, TX ELECTION § 82.002  
Current through the end of the 2019 Regular Session of the 86th Legislature

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Vernon's Texas Statutes and Codes Annotated  
Election Code (Refs & Annos)  
Title 7. Early Voting  
Subtitle A. Early Voting  
Chapter 84. Application for Ballot (Refs & Annos)  
Subchapter A. Application for Ballot

V.T.C.A., Election Code § 84.001

§ 84.001. Application Required

Effective: December 1, 2017

[Currentness](#)

- (a) To be entitled to vote an early voting ballot by mail, a person who is eligible for early voting must make an application for an early voting ballot to be voted by mail as provided by this title.
- (b) An application must be in writing and signed by the applicant. An electronic signature is not permitted.
- (c) An applicant is not required to use an official application form.
- (d) An application must be submitted by mail to the early voting clerk for the election who serves the election precinct of the applicant's residence.
- (d-1) A timely application that is addressed to the wrong early voting clerk shall be forwarded to the proper early voting clerk not later than the day after the date it is received by the wrong clerk.
- (e) An applicant for a ballot to be voted by mail may apply for ballots for the main election and any resulting runoff election on the same application. If an application for the main election and any resulting runoff is not timely for the main election, it will be considered timely for any resulting runoff if received not later than the deadline, determined using the date of the runoff election, for submitting a regular application for a ballot to be voted by mail.
- (f) A person who has not made an application as provided by this title is not entitled to receive an early voting ballot to be voted by mail.

**Credits**

Acts 1985, 69th Leg., ch. 211, § 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, § 20, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, § 2.07; Acts 1991, 72nd Leg., ch. 554, § 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1349, § 33, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1381, § 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 890, § 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 854, § 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 633, § 1, eff. Sept. 1, 2003; Acts 2015, 84th Leg., ch. 1050 (H.B. 1927), § 1, eff. Sept. 1, 2015; Acts 2017, 85th Leg., 1st C.S., ch. 1 (S.B. 5), § 3, eff. Dec. 1, 2017.

[Notes of Decisions \(16\)](#)

V. T. C. A., Election Code § 84.001, TX ELECTION § 84.001  
Current through the end of the 2019 Regular Session of the 86th Legislature

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Vernon's Texas Statutes and Codes Annotated  
Election Code (Refs & Annos)  
Title 7. Early Voting  
Subtitle A. Early Voting  
Chapter 84. Application for Ballot (Refs & Annos)  
Subchapter A. Application for Ballot

V.T.C.A., Election Code § 84.002

§ 84.002. Contents of Application

**Currentness**

(a) An early voting ballot application must include:

(1) the applicant's name and the address at which the applicant is registered to vote;

(2) for an application for a ballot to be voted by mail on the ground of absence from the county of residence, the address outside the applicant's county of residence to which the ballot is to be mailed;

(3) for an application for a ballot to be voted by mail on the ground of age or disability, the address of the hospital, nursing home or other long-term care facility, or retirement center, or of a person related to the applicant within the second degree by affinity or the third degree by consanguinity, as determined under Chapter 573, Government Code, if the applicant is living at that address and that address is different from the address at which the applicant is registered to vote;

(4) for an application for a ballot to be voted by mail on the ground of confinement in jail, the address of the jail or of a person related to the applicant within the degree described by Subdivision (3);

(5) for an application for a ballot to be voted by mail on any ground, an indication of each election for which the applicant is applying for a ballot; and

(6) an indication of the ground of eligibility for early voting.

(b) An application for a ballot to be voted by mail on the ground of absence from the county of residence must indicate that the applicant satisfies the requirements prescribed by [Section 82.001](#).

**Credits**

Acts 1985, 69th Leg., ch. 211, § 1, eff. Jan. 1, 1986. Amended by [Acts 1987, 70th Leg., ch. 472, § 21, eff. Sept. 1, 1987](#); [Acts 1991, 72nd Leg., ch. 554, § 1, eff. Sept. 1, 1991](#); [Acts 1991, 72nd Leg., ch. 203, § 1.04](#); [Acts 1997, 75th Leg., ch. 565, § 1, eff. Sept. 1, 1997](#); [Acts 1997, 75th Leg., ch. 1381, § 3, eff. Sept. 1, 1997](#).

[Notes of Decisions \(3\)](#)

V. T. C. A., Election Code § 84.002, TX ELECTION § 84.002  
Current through the end of the 2019 Regular Session of the 86th Legislature

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Vernon's Texas Statutes and Codes Annotated  
Election Code (Refs & Annos)  
Title 7. Early Voting  
Subtitle A. Early Voting  
Chapter 86. Conduct of Voting by Mail (Refs & Annos)

V.T.C.A., Election Code § 86.001

§ 86.001. Reviewing Application and Providing Ballot

Effective: September 1, 2013

[Currentness](#)

- (a) The early voting clerk shall review each application for a ballot to be voted by mail.
- (b) If the applicant is entitled to vote an early voting ballot by mail, the clerk shall provide an official ballot to the applicant as provided by this chapter.
- (c) Except as provided by [Section 86.008](#), if the applicant is not entitled to vote by mail, the clerk shall reject the application, enter on the application “rejected” and the reason for and date of rejection, and deliver written notice of the reason for the rejection to the applicant at both the residence address and mailing address on the application. A ballot may not be provided to an applicant whose application is rejected.
- (d) If the application does not include the applicant's correct voter registration number or county election precinct of residence, the clerk shall enter the appropriate information on the application before providing a ballot to the applicant.
- (e) If the applicant does not have an effective voter registration for the election, the clerk shall reject the application unless the clerk can determine from the voter registrar that the applicant has submitted a voter registration application and the registration will be effective on election day.
- (f) Repealed by [Acts 2013, 83rd Leg., ch. 1178](#) (S.B. 910), § 23.
- (g) If a ballot is provided to the applicant, the clerk shall indicate beside the applicant's name on the list of registered voters that a ballot to be voted by mail was provided to the applicant and the date of providing the ballot unless the form of the list makes it impracticable to do so.

#### Credits

Acts 1985, 69th Leg., ch. 211, § 1, eff. Jan. 1, 1986. Amended by [Acts 1987, 70th Leg., ch. 472, § 26, eff. Sept. 1, 1987](#); [Acts 1991, 72nd Leg., ch. 203, § 2.12](#); [Acts 1991, 72nd Leg., ch. 554, § 1, eff. Sept. 1, 1991](#); [Acts 1997, 75th Leg., ch. 1381, § 13, eff. Sept. 1, 1997](#); [Acts 2013, 83rd Leg., ch. 1178 \(S.B. 910\), § 23, eff. Sept. 1, 2013](#).

[Notes of Decisions \(1\)](#)

V. T. C. A., Election Code § 86.001, TX ELECTION § 86.001  
Current through the end of the 2019 Regular Session of the 86th Legislature

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## Instructions for Application for Ballot by Mail

**Residence Address** - Give full address as shown on your voter registration certificate. If you have moved within the county but not yet changed your voter registration address with the voter registrar, indicate your new residence address.

**Mail Ballot To** - Give full address where you wish to have ballot mailed, if the address is different from your residence address.

**Mailing Ballot to a Different Address** - Your ballot must be mailed to your home where you live or to your mailing address on your voter registration certificate. There are some exceptions that allow you to have your ballot mailed to a different location as specified below.

Reason for voting by mail	Location to mail ballot
65 or disabled	Nursing home, assisted living/retirement center, relative, hospital
In jail	Address of jail or relative
Absent from county	Address located outside of county

**Expected Absence from County** - If you chose expected absence from county, you must expect to be absent from the county on election day and during the hours of early voting in person or for the remainder of the early voting period after you submit your application. **Your ballot must be mailed to an address outside the county.** Important: Give date you can begin to receive mail at the address given.

**Annual Application** - If you are 65 years of age or older, or disabled you may apply to receive all ballots by mail for a calendar year. If you do not select any elections in Box 6a, your application will be considered an Annual Application. If you submit an annual application for a ballot by mail, your application may be forwarded to other entities holding elections where you are a qualified voter. This means that you may receive a ballot for those elections in addition to the ballot(s) you requested with this application.

### Submitting Application

**1. Sign and date your application** - If unable to sign, please go to Witness/Address boxes (11 on reverse) and have a person witness your mark. Witness/Assistant instructions follow below.

**2. Deliver to Early Voting Clerk** - You may submit your application via these methods:

**In Person:** Only the applicant may submit their application in person to the Early Voting Clerk until the early voting period begins. However, after the early voting period begins for an election, the applicant may only submit their application via mail, common contract carrier, fax, or e-mail.

**By Mail:** You may mail your application via the U.S. Postal Service.

**By Common Contract Carrier:** You may submit via a common or contract carrier which is a bona fide, for profit carrier.

**By Fax:** You may fax your application to the Early Voting Clerk. Please contact your Early Voting Clerk or the Secretary of State's Office for fax numbers.

**By E-Mail:** You may e-mail a signed, scanned image of your application to the Early Voting Clerk. Please contact your Early Voting Clerk or the Secretary of State's Office for e-mail addresses.

**IF YOU FAX OR E-MAIL YOUR APPLICATION TO THE EARLY VOTING CLERK, YOU MUST ALSO MAIL THE APPLICATION SO THAT THE CLERK RECEIVES IT NO LATER THAN THE FOURTH BUSINESS DAY AFTER THE DAY THE CLERK RECEIVED YOUR FAXED OR EMAILED APPLICATION. If you fax or e-mail your application by the deadline noted below, your application will be considered complete and timely as long as the original is received by the early voting clerk by the fourth business day after it was submitted by fax or e-mail.**

### Deadline

Your application must be received by the early voting clerk of the local entity conducting the election not later than the 11th day before election day. If the 11th day is a weekend or holiday the deadline is the first preceding business day. You may submit an application throughout the calendar year, beginning January 1. Please remember that the application must be received not later than the 11th day before the first election in which you seek to vote by mail.

If you submit an Annual Application for Ballot by Mail within 60 days before an election that takes place in the following calendar year, your application will be valid for any election that takes place in the following calendar year, regardless of the fact that your application was submitted prior to the end of the preceding calendar year. This applies to Annual Applications only and not to a regular application for ballot by mail.

### Witness/Assistant Section

**Witness:** If you are unable to sign your name (due to a physical disability or illiteracy), the application may be signed at Box #11 for you by a Witness. You must affix your mark to the application in Box #10 or, if you are unable to make a mark, then the Witness must check the appropriate box in 11 indicating the inability to make a mark. The Witness must state his/her name in printed form and indicate his/her relationship to you or, if unrelated, state that fact. The Witness must sign and provide his or her printed name and residence address. Unless the Witness is a close relative of the voter (parent, grandparent, spouse, child or sibling), it is a Class B misdemeanor for a person to witness more than one application for ballot by mail.

**Assistant:** If a person (other than a close relative or person registered to vote at the same address) assists you in completing this application in your presence or mails/faxes/e-mails this application on your behalf, then that person must complete Box #11. The Assistant must sign, provide his or her printed name, and his or her residence address. A person commits a Class A misdemeanor if the person provides assistance without providing the information described above unless a close relative or registered at your address.

**If you have further questions or need additional assistance, please contact your Early Voting Clerk or The Secretary of State's office at 1-800-252-8683 or [www.sos.state.tx.us](http://www.sos.state.tx.us).**

DO NOT REMOVE PERFORATED TABS. Moisten tab and fold top to bottom to seal.

FROM: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AFFIX LABEL HERE OR ADDRESS

TO: EARLY VOTING CLERK

\_\_\_\_\_  
\_\_\_\_\_

AFFIX FIRST  
CLASS  
POSTAGE



**APPLICATION FOR BALLOT BY MAIL FROM HARRIS COUNTY, TEXAS PLEASE PRINT OR TYPE**

(SOLICITUD DE UNA BOLETA ELECTORAL DEL CONDADO DE HARRIS, TEXAS USANDO LETRAS DE MOLDE O A MAQUINA)

<b>1 NAME - AS REGISTERED TO VOTE</b> (NOMBRE - COMO REGISTRADO PARA VOTAR)	<b>2 DATE OF BIRTH</b> (mm/dd/yyyy) (FECHA DE NACIMIENTO) <div style="border: 1px solid black; width: 100%; height: 30px; display: flex; justify-content: space-between;"> <span style="border-right: 1px solid black; width: 25%;"></span> <span style="border-right: 1px solid black; width: 25%;"></span> <span style="border-right: 1px solid black; width: 25%;"></span> <span style="width: 25%;"></span> </div>
<b>3 ADDRESS - WHERE REGISTERED TO VOTE</b> (DIRECCIÓN - DONDE REGISTRADO PARA VOTAR)  NUMBER (Número)    STREET (Calle)    Apt. (Apartamento)	<b>4 LANGUAGE PREFERENCE</b> - Select type of ballot you wish to receive: (Preferencia de idioma - Seleccione el tipo de boleta que desea recibir.) <input type="checkbox"/> <b>English/Spanish</b> (Inglés/Español) <input type="checkbox"/> <b>English/Vietnamese</b> (Inglés/Vietnamita) <input type="checkbox"/> <b>English/Chinese</b> (Inglés/Chino)
<b>5 TELEPHONE NUMBER</b> (NUMERO DE TELEFONO) <div style="border: 1px solid black; width: 100%; height: 30px; display: flex; justify-content: space-between;"> <span style="border-right: 1px solid black; width: 25%;"></span> <span style="border-right: 1px solid black; width: 25%;"></span> <span style="border-right: 1px solid black; width: 25%;"></span> <span style="width: 25%;"></span> </div>	<b>6 EMAIL ADDRESS</b> - Used in case our office has questions. (Optional) (E-Mail - Se utiliza en caso de que nuestra oficina tenga preguntas.)

**7 YOU MUST CHECK THE REASON YOU ARE APPLYING FOR A BALLOT BY MAIL**  
 (TIENE QUE INDICAR POR QUE ESTA SOLICITANDO UNA BOLETA ELECTORAL POR ADELANTADA.)

<input type="checkbox"/> <b>1) 65 years of age or older</b> (65 años de edad o más)	<input type="checkbox"/> <b>2) Disability</b> (Incapacidad)
<input type="checkbox"/> <b>3) Absent From County</b> (Ausente del Condado)	<input type="checkbox"/> <b>4) Confinement In Jail</b> (Está encarcelado)

**If applying once for all county elections in the calendar year, select "Annual Application."**  
 (Si se aplica una vez por todas las elecciones de su condado en el año calendario, seleccione "Solicitud Anual.")

**Annual Application - For 65+ or Disabled** (Solicitud Anual - Para 65+ o Incapacidad)

**If applying for one election, select appropriate boxes**  
 (Si solicita una elección, seleccione casillas correspondientes).

May (Mayo)   
  November (Noviembre)   
  Other (Otro) \_\_\_\_\_  
 Any Runoff (Cualquier elección de desempate)

**If "Absent From County", BALLOT MUST BE MAILED OUTSIDE THE COUNTY.**  
 (Si "ausente del Condado", boleta debe ser enviada fuera del condado)

**If applying for one election, select appropriate boxes**  
 (Si solicita una elección, seleccione casillas correspondientes).

May (Mayo)   
  November (Noviembre)   
  Other (Otro) \_\_\_\_\_  
 Any Runoff (Cualquier elección de desempate)

**8 PRIMARY ELECTIONS** (ELECCIONES PRIMARIAS) You Must Declare One Political Party to vote in a Primary (Debe declarar un partido político para votar en una primaria)

**Democratic** (Demócrata)   
  **Republican** (Republicano)

**9 If you are requesting this ballot be mailed to a different address (other than residence), indicate where the ballot will be mailed.**  
 (Si usted esta solicitando que esta boleta se envíe a una dirección diferente (que no sea la residencia), indique a donde se enviará la boleta.)

**Check one:** (Marque una.)

Mailing Address on my voter registration certificate (Dirección postal en mi certificado de registro de votante)  
 Hospital (hospital)  
 Nursing home or long-term care facility (centro de enfermería o de cuidados medicos a largo plazo)  
 Retirement center (centro de Retiro)  
 Address of the Jail (Dirección de la Cárcel)  
 Relative; Relationship: (Pariente; Relación:) \_\_\_\_\_  
 Address outside the county. **Complete dates** (Dirección Fuera del Condado. Complete las fechas).

**Complete dates as needed.**  
 (Fechas completas según sea necesario)

**Dates of absence:**(Fechas de ausencia:)

First day to receive mail at this address (Primer día para recibir correo en esta dirección)  
 Date of return to residence address (Fecha de regreso al domicilio de residencia)

**MAIL MY BALLOT TO:** (Enviar mi boleta a:).

NUMBER (Número)    STREET (Calle)    Apt. (Apartamento)    CITY (Ciudad)    STATE (Estado)    ZIP (Zona Postal)

**10 I CERTIFY THAT THE INFORMATION GIVEN IN THIS APPLICATION IS TRUE, AND I UNDERSTAND THAT GIVING FALSE INFORMATION IN THIS APPLICATION IS A CRIME.**  
 ("CERTIFICO QUE LA INFORMACIÓN INDICADA EN ESTA SOLICITUD ES VERDADERA Y ENTIENDO QUE ES UN DELITO DAR INFORMACIÓN FALSA EN ESTA SOLICITUD.")

For Official Use (Sólo para uso oficial).

**VOTER SIGN HERE**  
 (VOTANTE FIRME AQUÍ)

X

Signature as Registered to Vote (FIRMA COMO REGISTRADO PARA VOTAR)

**11 FOR WITNESS and/or ASSISTANT (PARA TESTIGO y/o ASISTENTE)**

← If applicant is unable to sign or make a mark in box 10, the witness shall check this box.  
 (Si el solicitante no puede firmar o hacer una marca en la casilla 10, el testigo deberá marcar esta casilla.)

**Failure to complete this information is a Class A misdemeanor if signature was witnessed or applicant was assisted in completing the application.**  
 (Si no se completa esta información es un delito menor de clase A si la firma fue atestiguada o solicitante fue asistido en llenar la solicitud.)

← **Check this box, if acting as a Witness**  
 (Marque esta casilla si usted está actuando como testigo)

← **Check this box, if acting as an Assistant**  
 (Marque esta casilla, en caso de actuar como asistente).

★ If you are acting as Witness and Assistant, please check both boxes (Si usted está actuando como testigo y asistente, por favor marque ambas casillas)

**Printed Name of Witness/Assistant** (Nombre en letra de molde del Testigo / Asistente)

**Signature of Witness/Assistant** (Firma del Testigo/Asistente)

NUMBER (Número)    STREET (Calle)    Apt. (Apartamento)

CITY (Ciudad)    STATE (Estado)    ZIP (Zona Postal)

**Witness' Relationship to Applicant** - See Instructions.  
 (Relación del testigo al solicitante - Vea las instrucciones)

**12**

**Mail to: (Correo a:)**

**DIANE TRAUTMAN, HARRIS COUNTY CLERK P.O. Box 1148, Houston, TX 77251 1148**

**OR Deliver by Common Contract Carrier ONLY to:**  
 (O entregar por transportista contratado común SOLAMENTE a:)

**DIANE TRAUTMAN, Harris County Admin Building  
 1001 Preston, 4th Floor, Suite 440, Houston, TX 77002**

# INSTRUCTIONS FOR APPLICATION FOR BALLOT BY MAIL FROM HARRIS COUNTY, TEXAS

**Residence Address** - Give full address as shown on your voter registration certificate. If you have moved within the county but not yet changed your voter registration address with the voter registrar, indicate your new residence address.

**Mail Ballot To** - Give full address where you wish to have ballot mailed, if the address is different from your residence address.

**Mailing Ballot to a Different Address** - Your ballot must be mailed to your home where you live or to your mailing address on your voter registration certificate. There are some exceptions that allow you to have your ballot mailed to a different location:

Reason for voting by mail	Location to mail ballot
65 or disabled	Nursing home, assisted living/retirement center, relative, hospital
In jail	Address of jail or relative
Absent from county	Address located outside of county

**Expected Absence from County** - If you chose expected absence from county, you must expect to be absent from the county on election day and during the hours of early voting in person or for the remainder of the early voting period after you submit your application. Your ballot must be mailed to an address outside the county. Important: Give date you can begin to receive mail at the address given.

**Annual Application** - If you are 65 years of age or older, or disabled you may apply to receive all ballots by mail for a calendar year. Please note this application will only apply to elections held by the county. If you do not select any elections in Box 7, your application will be considered an Annual Application.

## Submitting Application

**1. Sign and date your application** - If unable to sign, please go to Witness/Address box 11 and have a person witness your mark. Witness/Assistant instructions follow below.

**2. Deliver to Early Voting Clerk** - You may submit your application via these methods:

In Person: You may submit your OWN application in person to the Early Voting Clerk until the early voting period begins. However, after the early voting period begins for an election, you may only submit your application via mail, fax or common contract carrier.

By Mail: You may mail your application via the U.S. Postal Service.

By Common Contract Carrier: You may submit your application via a common or contract carrier which is a bona fide, for profit carrier.

## Deadline

Your application must be received by the Harris County Clerk not later than the 11th day before election day. If the 11th day is a weekend or holiday, the deadline is the first preceding business day.

-If you are voting by mail because you are 65 years of age or older or are disabled and are submitting an Annual Application for county elections, you may submit an application throughout the calendar year, beginning January 1. Please remember that the application must be received not later than the 11th day before the first election in which you seek to vote by mail.

-If you are voting by mail for any reason, and are not submitting an Annual Application, you cannot submit the application to the Early Voting Clerk until the 60th day before the election.

## Witness/Assistant Section

**Witness:** If you are unable to sign your name (due to a physical disability or illiteracy), the application may be signed in Box #11 for you by a Witness. You must make your mark to the application in Box #10 or, if you are unable to make a mark, then the Witness must check the appropriate box in #11 indicating the inability to make a mark. The Witness must state his/her name in printed form and indicate his/her relationship to you or, if unrelated, state that fact. The Witness must sign and provide his or her printed name and residence address. Unless the Witness is a close relative of the voter (parent, grandparent, spouse, child or sibling), it is a Class B misdemeanor for a person to witness more than one application for ballot by mail.

**Assistant:** If a person (other than a close relative or person registered to vote at the same address) assists you in completing this application in your presence or mails/faxes this application on your behalf, then that person must check the "Assistant box." The Assistant must sign, provide his or her printed name, and his or her residence address. A person commits a Class A misdemeanor if the person provides assistance without providing the information described above unless they are a close relative or registered at your address.

# INSTRUCCIONES PARA UNA SOLICITUD DE BOLETA POR CORREO DE HARRIS COUNTY, TEXAS

**Dirección de residencia** - De la dirección completa como aparece en su certificado de registro electoral. Si usted se ha mudado dentro del condado pero aún no ha cambiado su dirección de registro de votantes con el registrador de votantes, indique su nueva dirección de residencia.

**Enviar Boleta a** - De la dirección completa a donde desea que su boleta sea enviada, si la dirección es diferente a su dirección de residencia.

**Envío de Boleta a una dirección diferente** - Su boleta debe ser enviada a su casa donde usted vive o a su dirección postal en su certificado de inscripción del votante. Hay algunas excepciones que permiten que su boleta por correo sea enviada a una ubicación diferente.

Razón para votar por correo	Ubicación para enviar boleta por correo
65 o discapacitado	Asilo de ancianos, vivienda asistida / centro de jubilados, pariente, hospital
En la cárcel	Dirección de la cárcel o pariente
Ausente del condado	Dirección ubicada fuera del condado

**Ausencia prevista del condado** - Si elige ausencia prevista del condado, usted debe estar ausente del condado el día de las elecciones y durante las horas de votación anticipada en persona o por el resto del período de votación temprana después de presentar su solicitud. Su boleta debe ser enviada a una dirección fuera del condado. Importante: Indique a partir de que fecha puede empezar a recibir correo en la dirección indicada.

**Solicitud Anual** - Si usted tiene 65 años de edad o más, o con discapacidad puede solicitar recibir todas las boletas por correo durante un año calendario. Atención: esta solicitud sólo se aplicará a las elecciones celebradas por el condado. Si no se selecciona ninguna elección en el recuadro 7, su solicitud se considerará una solicitud anual.

## Presentación de Solicitud

**1. Firmar y fechar su solicitud** - Si no puede firmar, por favor diríjase a la caja de Testigo / Dirección 11 y consiga una persona para atestiguar su marca. Instrucciones Testigo / Asistente siguen a continuación.

**2. Entregar al Secretario de la Votación Temprana** - Puede presentar su solicitud a través de estos métodos:

En persona: Puede presentar su solicitud en persona al Secretario de Votación Temprana hasta que comience el período de votación temprana. Sin embargo, después de que el período de votación temprana comience para una elección, sólo podrá enviar su solicitud por correo, fax o por portador de contrato común.

Por Correo: Usted puede enviar su solicitud a través del Servicio Postal de los EE.UU..

Por Portador de Contrato común: Usted puede enviar a través de un portador común o de contrato, esté debiera ser auténtico y de una empresa con fines de lucro.

## Fecha Límite

Su solicitud debe ser recibida por el Secretario del Condado de Harris, a más tardar el día 11 h antes de la jornada electoral. Si el día 11 es un fin de semana o día festivo, el plazo es el primer día hábil anterior.

-Si usted vota por correo, porque tiene 65 años de edad o más o está discapacitado y está sometiendo una solicitud anual para elecciones del condado, usted puede presentar una solicitud durante todo el año calendario, a partir del 1 de enero. Por favor, recuerde que la solicitud debe ser recibida a más tardar el día 11 h antes de la primera elección en que usted desea votar por correo.

-Si usted está votando por correo, por cualquier razón, y no está presentando una solicitud anual, no se puede presentar la solicitud al Secretario de Votación Temprana hasta el día 60 antes de la elección.

## Sección Testigo / Asistente

**Testigo:** Si no puede firmar su nombre (debido a una discapacidad física o el analfabetismo), la solicitud podrá ser firmada en la casilla # 11 para usted por un testigo. Usted debe poner su marca en la solicitud en la casilla # 10, o, si usted es incapaz de hacer una marca, el testigo deberá marcar la casilla # 11 que indica la imposibilidad de hacer una marca. El testigo debe declarar su nombre en letra de molde, indicando su relación con usted o, si no relacionado, debe declararse este hecho. El testigo debe firmar y proporcionar su nombre y dirección de residencia en letra de molde. A menos que el testigo es un pariente cercano del votante (padres, abuelos, cónyuge, hijo o hermano), es un delito menor de Clase B para una persona presenciar más de una solicitud para votar por correo.

**Asistente:** Si una persona (que no sea un familiar cercano o persona inscrita para votar en el mismo domicilio) le ayuda a llenar esta solicitud en su presencia o envía por correo o por fax esta solicitud en su nombre, entonces esa persona debe marcar la casilla nombrada "Asistente". El Asistente debe firmar, proporcionar su nombre y su dirección de residencia en letra de molde. Una persona comete un delito menor Clase A, si la persona presta asistencia sin proporcionar la información escrita anteriormente a menos que sea un pariente cercano o este registrado en su dirección.



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1148, Houston, TX 77251 1148**

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